

**STATE OF NEW HAMPSHIRE**  
**SUPREME COURT**  
**ADVISORY COMMITTEE ON JUDICIAL ETHICS**

**DOCKET NUMBER:** 2002-ACJE-04

**DATE ISSUED:** September 11, 2002

**QUESTION PRESENTED:**

Does the Code of Judicial Conduct prohibit judges from attending, as guests, functions of private not-for-profit associations of attorneys, such as the Trial Lawyers Association and Women's Bar Association, when those meetings are not for the purpose of fund raising?

**DISCUSSION AND APPLICATION OF CODE OF JUDICIAL CONDUCT:**

The question presented implicates Canons 2B and 4D(5) of the Code of Judicial Conduct. Canon 2B provides, in relevant part, that a judge shall not "convey or permit others to convey the impression that they are in a special position to influence the judge." The issue, then, is whether attendance at such functions can reasonably be expected to convey the prohibited impression. A careful reading of the Code discloses a number of provisions which make clear that judicial isolation is to be avoided. While the Commentary to Canon 2A states that "[a] judge must ... accept restrictions on the judge's conduct that might be viewed as burdensome by the ordinary citizen," the Commentary to Canon 4A advises that "[c]omplete separation of a judge from extra-judicial activities is neither possible nor wise; a judge should not become isolated from the community in which the judge lives."

Various sections of the Code explicitly permit participation in extra-judicial activities such as speaking, writing, lecturing, or teaching concerning the law, legal system, administration of justice, and non-legal subjects. Canon 4C(2), for example, permits service on governmental commissions concerned with the improvement of the law, the legal system or the administration of justice, and Canon 4C(3) permits service with educational, religious, charitable, fraternal or civic organizations not conducted for profit. In the opinion of the Committee, attendance at a social or other function of not-for-profit organizations of lawyers

is consistent with the admonition to judges not to become isolated from their communities, which would, of course, include their professional communities.

We next turn to Canon 4D(5) of the Code which prohibits a judge from accepting a gift from anyone except for, among other things, ordinary social hospitality. Canon 4D(5)(c). Invitations to functions such as those described in the question presented are typically extended as an acknowledgement of the work of the judiciary and with the intention of encouraging collegiality. They are purely a symbol of ordinary social hospitality and, therefore, entirely permissible, if not encouraged, by the Code of Judicial Conduct.

### **ADVISORY OPINION ON THE QUESTION PRESENTED**

The Code of Judicial Conduct does not prohibit judges from attending, as guests, functions of private not-for-profit associations of attorneys, such as the Trial Lawyers Association and the Women's Bar Association, when those meetings are not for the purpose of fund raising.

**THIS ADVISORY OPINION IS ISSUED BY UNANIMOUS CONCURRENCE OF ALL COMMITTEE MEMBERS.**

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Edwin W. Kelly, Member

### **CAUTIONARY STATEMENT**

This opinion is advisory only and not binding on the judicial conduct committee, which may, in its discretion, consider compliance with an advisory opinion by the requesting individual as a good faith effort to comply with the Code of Judicial Conduct. Rule 38-A(4)(c).